

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC; MARTIN
AFFILIATED, LLC,

Plaintiffs,

v.

SPOTIFY USA INC.; HARRY FOX AGENCY,
LLC,

Defendants,

v.

KOBALT MUSIC PUBLISHING AMERICA, INC.

Third-Party Defendant.

Case No. 3:19-cv-00736

UNITED STATES OF AMERICA’S NOTICE OF INTERVENTION

Pursuant to Federal Rules of Civil Procedure 5.1(c) and 24(a)(1), 28 U.S.C. § 2403(a), and with the authorization of the Solicitor General of the United States, the United States of America hereby intervenes in this case for the limited purpose of defending the constitutionality of the Orrin G. Hatch-Bob Goodlatte Music Modernization Act of 2018 (“MMA”), 17 U.S.C. § 115.

Plaintiffs Eight Mile Style LLC and Martin Affiliated, LLC (collectively “Eight Mile”) filed a complaint against Spotify USA Inc. and Harry Fox Agency, LLC on August 21, 2019. Compl., ECF No. 1. On August 23, 2019, Eight Mile filed a notice of constitutional challenge pursuant to Federal Rule of Civil Procedure 5.1. ECF No. 8. On October 13, 2023, Eight Mile filed its motion for summary judgment, which argues in the alternative that the MMA’s retroactive limitation on liability for certain claims of copyright infringement “constitutes an unconstitutional taking” of Eight Mile Style’s property and “denies it due process” under the Fifth Amendment of the United States Constitution. *See* Pls.’ Mem. in Supp. of Mot. for Summ. J. at 59, ECF No. 370-1.

The United States is entitled to intervene in this case. Rule 5.1(c) permits the Attorney General to intervene in an action in which the constitutionality of a federal statute is challenged. Rule 24(a)(1) also permits a non-party to intervene when it “is given an unconditional right to intervene by a federal statute.” 28 U.S.C. § 2403(a) provides that in any action “wherein the constitutionality of any Act of Congress . . . is drawn into question, the court . . . shall permit the United States to intervene . . . for argument on the question of constitutionality.” Accordingly, the United States hereby provides notice of intervention in this matter for the limited purpose of defending the constitutionality of the MMA. The United States’ memorandum in support of the constitutionality of the MMA will be filed separately today.

Dated: December 12, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on December 12, 2023, with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system.

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